IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 706 of 2001 (M/B)

Heera Singh Negi, S/o Late Chautar Singh Negi,
At Present Up Pradhan,
Gram Panchayat Kapkoti, Nyaya Panchayat Pinglon,
Vikas Khand Garur,
District Bageshwar. …… Petitioner.

Versus

1. State of Uttaranchal,
   through District Magistrate,
   Bageshwar.
2. Chief Development Officer,
   Bageshwar.
3. Block Development Officer,
   Garur Block,
   District Bageshwar.
4. Pramukh Kshetra Panchayat,
   Garur, District Bageshwar.
5. Gram Pradhan,
   Gram Panchayat Kapkoti,
   Vikas Khand Garur,
   District Bageshwar. …… Respondents

Mr. Kurban Ali, Advocate for the petitioner.
Mr. N.C. Gupta, Standing Counsel for the State of Uttaranchal.
Mr. N.S. Negi, Advocate for respondents Nos. 4 and 5.

JUDGMENT

Coram: Hon. Rajeev Gupta, C.J.
Hon. M.M. Ghildiyal, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Kuran Ali, Advocate for the petitioner.

Mr. N.C. Gupta, Standing Counsel for respondents Nos. 1 to 3.

Mr. N.S. Negi, Advocate for respondents Nos. 4 and 5.

They are heard.

2. The petitioner has filed this writ petition for the following reliefs:

> "a. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondents

to make the balance payment of Rs. 32 thousand to the petitioner.

b. Issue a writ, order or direction in the nature of mandamus commanding and directing the respondent No. 1 to make and impartial enquiry regarding the withdrawing of the amounts from the different Yojna by the husband of Gram Pradhan, Panchayat Kapkoti.

c. Any other writ order or direction which this Hon'ble Court may deem fit and proper under the circumstances of this case.

d. Cost of the writ petition be awarded to the petitioner."

3. The petitioner claims that the respondents are withholding the balance payment of the work executed by the petitioner.

4. In the counter affidavit filed on behalf of respondents Nos. 4 and 5, it has been categorically stated that work for the construction of Hauj/Gool in Village Phalyati, Gram Panchayat Kapkoti/Dholgaon, Block Garur, District Bageshwar was never entrusted to the petitioner by any of the authorities and on the contrary, the said work was completed by the Gram Panchayat, itself, by engaging labourers on Muster Roll basis and wages of all the labourers were paid out of the payment of Rs. 1,18,948/- received by respondents Nos. 4 and 5.

5. As the entrustment of the said work, itself, to the petitioner is seriously disputed by the respondents, in our opinion, the appropriate remedy for the petitioner would be to file a civil suit for the redressal of his grievances, as the above disputed questions of fact cannot be resolved in the proceedings under Article 226 of the Constitution of India.

6. With the above observation, the writ petition stands deposed of.

(M.M. Ghildiyal, J.) **(Rajeev Gupta, C.J.)**
04.03.2006 **04.03.2006**

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